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August 25, 2009

Hon. Esther Salas, U.S.M.J.  
US District Court  
District of New Jersey  
50 Walnut Street  
Newark, NJ 07102

**RE: Grossbaum vs. Genesis Genetics, et al.**  
**Civil Action No.: 07-CV-1359 (HAA)**

Dear Judge Salas:

I regret to advise you that plaintiffs' ability to comply with the Court's most recent Scheduling Order of June 10, 2009 has been unsuccessful.

As you know from prior correspondence (see my letter of May 6, 2009 to Your Honor annexed hereto) the complete record of the laboratory studies done by Defendant Genesis Genetics were not provided to the plaintiff notwithstanding our numerous requests that started prior to the initiation of the litigation until May 8, 2009 (see our letter of May 11, 2009 annexed hereto).

Needless to say this delay in providing the records had the effect of delaying our ability to have our consultant, Dr. Garry R. Cutting, Professor of Pediatrics and Medicine and Director of the DNA Diagnostic Laboratory, Institute of Genetic Medicine at Johns Hopkins University, relay his conclusions as to the departures from the standard of care by Defendant Genesis Genetics. Furthermore, the delay in receiving these records further delayed our efforts to consult directly with Dr. Cutting concerning the various complicated issues of genetic medicine involved in this case.

To further advance the production of a report in this case and facilitate our understandings of the complex issues, we traveled to Baltimore on July 7, 2009 to meet with Dr. Cutting and arrange for his report. At that meeting it was determined to abide the deposition of the embryologist at NYU Medical Center before he dictated his final impressions.

Page Two  
August 25, 2009

Our efforts to accelerate the deposition process at NYU was met with the advice by defense counsel that no two witnesses would be available on the same day and as a result thereof, the plaintiffs' counsel was required to travel to New York for depositions of the defendant NYU's personnel on the following dates: Dr Licciardi, the plaintiff's treating IVF doctor on 3/11/09; Kaycian Brown, RN on 5/27/09; Imelda Weill, RN on 6/4/09; Dr. James Grifo, Director of the Fertility Clinic, on 6/24/09; and Alexis Adler, the embryologist, on July 13, 2009, the transcript of which deposition was received on July 30, 2009.

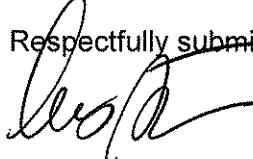
This deposition transcript was forwarded to Dr Cutting on August 4, 2009.

Our further communication with Dr. Cutting's office brought the disclosure that Dr. Cutting was unavailable to receive emails until his return on August 24, 2009. Needless to say, efforts to obtain a final and detailed report in this matter from Dr. Cutting up until this time have not met with success, although it does not appear unreasonable that having received further information as late as August 5<sup>th</sup> or 6<sup>th</sup>, Dr. Cutting would not be expected in the summer month of August to have produced a report previous to this time.

The Court should also be advised that plaintiffs anticipate a further expert report from Svetlana Rechitsky, PhD who is in charge of the PGD testing laboratory at Reproductive Genetics Institute in Chicago and is expected to provide an additional report on behalf of the plaintiff.

Moreover, with respect to damages, plaintiff has consulted Linda Lajerman of Life Care Specialists, LLC for the purpose of preparing a life care plan with respect to the infant plaintiff. We have obviously not incurred the substantial expense of the preparation of the life care plan pending our receipt of the liability reports which will confirm the basis for proceeding.

It is certainly the desire of the plaintiff, as evidenced by our prior communications with the Court, to move these proceedings, as our involvement with the numerous depositions to date have indicated. However, we respectfully suggest that the Scheduling Order provided by the Court with respect to this matter cannot be accommodated and should be revisited.

Respectfully submitted,  
  
Lewis Stein

LS:Ih

cc: Stephen N. Leuchtman, Esq.  
John F. Basiak, Esq.  
R. Scott Eichhorn, Esq.

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May 6, 2009

Hon. Esther Salas, U.S.M.J.  
US District Court  
District of New Jersey  
50 Walnut Street  
Newark, NJ 07102

**RE: Grossbaum vs. Genesis Genetics, et al.**  
**Civil Action No.: 07-CV-1359 (HAA)**

Dear Judge Salas:

I regret to advise the Court that our efforts to move forward with discovery in accordance with the Court's Scheduling Orders have been frustrated for many months by the unwillingness of Defendant, Genesis Genetics, to comply with our requests for the records created by that company. As may be seen from the enclosed correspondence dated March 5, 2009 to Genesis Genetics' defense counsel, we have been trying for more than two years to obtain a full and complete copy of the records of Genesis Genetics.

As the letter stated, it was not until Defendant, Mark Hughes', deposition on February 19, 2009, that we became aware that the records provided previously had been incomplete. One month passed before we were able to obtain a copy of the additional records, which were received on March 16<sup>th</sup>. Even though Dr. Hughes and the Defendant, Genesis Genetics, must have realized that the photocopy of the records we received would not provide our expert with a complete understanding of the records since the actual records were color coded and the color coding would be required for evaluation purposes, no color copy was provided. Thereafter, following advice by our expert that the records of Genesis Genetics that we had received on March 16<sup>th</sup> had to be color coded, I wrote to defense counsel, Stephen Leuchtmann, Esq., requesting the color copy by letter dated April 6<sup>th</sup>, a copy which is annexed hereto. No response was forthcoming and, again on April 24<sup>th</sup>, I faxed a reminder letter to Mr. Leuchtmann, a copy which is also annexed hereto.

Hon. Esther Salas, U.S.M.J.  
May 6, 2009  
Page Two

To date, we do not have a full and complete useful copy of Defendant, Genesis Genetics', records. For this reason, we have been unable to obtain the final opinions of Plaintiffs' expert.

For all of the Court's involvement, we are still at the starting gate of this litigation, although it now is more than 20 months since Defendant, Genesis Genetics, had filed its Answer.

We must call upon the Court to invoke its authority with respect to the cooperation and compliance of Defendant, Genesis Genetics, with Plaintiffs' reasonable requests for documents in this matter.

Respectfully submitted,

LS:svd  
cc: Stephen N. Leuchtman, Esq.  
John F. Basiak, Esq.  
R. Scott Eichhorn, Esq.

Lewis Stein

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May 11, 2009  
Via Facsimile (973) 645-2469

Hon. Esther Salas, U.S.M.J.  
US District Court  
District of New Jersey  
50 Walnut Street  
Newark, NJ 07101

Re: Grossbaum v. Genesis Genetics Institute, et al.  
Civil Action No. 07-1359 (HAA)

Dear Judge Salas:

As a follow-up to our letter of May 6, 2009 in the above referenced matter, please be advised that on Friday, May 8<sup>th</sup>, we received from Genesis Genetics' defense counsel the color coded copies of the records we requested.

We have what we now believe to be a copy of the complete chart of Defendant, Genesis Genetics.

Respectfully yours,

Lewis Stein

LS:svd

cc: Stephen N. Leuchtman, Esq.- fax 248-948-5055  
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